

Slide 1

Legal Bits to Note

February 28, 2015 Adriane Wood, DCA

Georgia Community Affairs

Slide 2

Bits of information

Zoning Procedures Law & Conflicts of Interest

Slide 3

Constitutional Authority To Plan And Zone

□ The governing authority of each county and of each municipality may adopt plans and may exercise the power of zoning. This authorization shall not prohibit the general assembly from enacting general laws establishing procedures for the exercise of such power.

Ga. Const. Art. 9, §2, Para. IV

Slide 4

Zoning Procedures Law

- OCGA 36-66
- § 36-66-2. Legislative purpose; local government zoning powers
 - (a) While recognizing and confirming the authority of local governments to exercise zoning power within their respective territorial boundaries, it is the intention of this chapter to establish as state policy minimum procedures governing the exercise of that power....
 - (b) Consistent with the minimum procedures required by this chapter, local governments may:
 - Provide for...administrative officers, bodies, or agencies...for the efficient exercise of their zoning powers; and
 - Provide ...for procedures and requirements....

Slide 5

ZPL – what is a “zoning decision”

- Adoption of a zoning ordinance
- Adoption of ordinance amendments that:
 - Changes the text
 - Rezones property
- Changes in ordinance resulting from an annexation

Slide 6

ZPL- Notice of Public Hearings

- § 36-66-4. Hearings on proposed zoning decisions; notice of hearing; nongovernmental initiated actions; reconsideration of defeated actions...
 - Published in the local LEGAL organ
 - At least 15 days prior but not more than 45
 - Time, place, purpose of hearing
 - If not by the local government, then
 - Notice shall include the location, present zoning and purpose
 - Sign shall be posted not less than 15 days prior
 - If denied, can't be reconsidered until at least 6 months following the denial

Slide 7

ZPL- Policies, procedures and standards

- § 36-66-5. Adoption of hearing policies and procedures and standards for exercise of zoning power
 - (a) Adopt P&P to govern calling and conducting hearings
 - Printed copies shall be available for distribution
 - Shall specify time allotted for presentations
 - Equal for proponents and opponents
 - Must state that each side shall have no less than 10 minutes (total)
 - (b) shall adopt standards governing the exercise of the zoning power
 - Printed copies shall be available for distribution
- These may be included as part of the zoning ordinance following a public hearing

Slide 8

Conflicts of Interests

- TITLE 36. LOCAL GOVERNMENT
CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS
O.C.G.A. TITLE 36 Chapter 67A (2014)
- Who?
 - Planning Commissioners
 - Locally elected officials
 - Mayor
 - Chairman
 - Counselors
 - Commissioners
- § 36-67A-4. Penalties
Any person knowingly failing to comply with the requirements of this chapter or violating the provisions of this chapter shall be guilty of a misdemeanor.

Slide 9

Conflicts...

- When?
 - "Rezoning action" means action by local government adopting an amendment to a zoning ordinance which has the effect of rezoning real property from one zoning classification to another.
 - Should probably include ordinance adoptions, ordinance warding or map amendments
- What?
 - Financial or other property interests in real property affected by a rezoning
 - Family member having any interest in property
 - Disclosures
 - Immediately
 - In Writing
 - To the pertinent local government
 - Official must disqualify self from voting on rezoning
 - Shall take NO OTHER action on behalf of self or others to influence action on the rezoning

Slide 10

Campaign Contributions

- § 36-67A-3. Disclosure of campaign contributions
 - (a) When any **applicant** for rezoning action has made, within two years immediately preceding the filing ... campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report
 - (b) The disclosures ...shall be filed within ten days after the application for the rezoning action is first filed.
 - (c) When any **opponent** of a rezoning action has made, within two years immediately preceding the filing ...campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure...

Slide 11

Things to remember

- Avoid making decisions in advance
- Avoid making public comments in advance
- Avoid ex-parte communications
 - The rezoning decisions are legislative NOT administrative
 - Decisions
- Limit your comments to relevant points
- If you questions whether or not you have a conflict, disclose and recuse
- Always talk to your government attorney

Slide 12




